

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

California Independent System  
Operator Corporation

Docket No. ER03-746-000

ORDER CONDITIONALLY ACCEPTING AND SUSPENDING  
TARIFF AMENDMENTS PENDING FURTHER  
COMMISSION ACTION

(Issued June 13, 2003)

1. In this order, the Commission conditionally accepts and suspends, pending a further Commission order, the California Independent System Operator Corporation's (CAISO) proposed Tariff Amendment No. 51 to its Open Access Transmission Tariff (OATT). This order benefits market participants by clarifying the procedures needed to address the requirements resulting from the recent California refund proceeding.<sup>1</sup>

**Background**

2. On April 15, 2003, the CAISO filed its proposed Amendment 51 to its OATT. This amendment relates to settlement statement re-runs and adjustments to scheduling coordinator invoices. The CAISO states that expeditious action on this matter is warranted to facilitate its completion of a series of preparatory settlement re-runs that are prerequisites to calculating final refunds required by the California Refund Order. For this reason, the CAISO is requesting an effective date of May 1, 2003 for this amendment.

3. Currently the CAISO tariff requires that charges and adjustments for past trade dates are to be added to current trade month Settlement Statements and invoices. The CAISO

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<sup>1</sup>See San Diego Gas & Electric Company, *et al.*, 102 FERC ¶ 61,317 (2003) (California Refund Order), *clarified*, 103 FERC ¶ 61,078 (2003). These orders clarified the method for calculating refunds for purchases made in the organized spot markets in California during the period October 2, 2000 through June 20, 2001.

states that this provision is not compatible with the resolution of past period adjustments where preparatory adjustments and re-runs and collection of past charges on current month invoices will cause several problems. The CAISO states that it would be administratively beneficial to have the invoicing and Settlement process for the preparatory adjustments and re-runs completely separated (i.e., "walled off") from the invoicing and settlement process that it currently uses to clear its market.

4. Specifically, the CAISO has proposed the following modifications to its tariff:

(1) Modify Section 11.6.3.2 of the Tariff to provide that the CAISO Governing Board may order the cost of a Settlement Statement re-run to be borne by the Scheduling Coordinator requesting it;

(2) Modify Section 11.6.3.3 to remove the last sentence of the section, which provides that the net balance of all adjustments shall go into a balancing account, as a debit or credit, to the Grid Management Charge;

(3) Add Section 11.6.3.4 to provide that re-runs and the financial outcomes of dispute resolution may be invoiced separately from monthly market activities, and that the CAISO will give a market notice at least 30 days prior to such invoicing identifying the components of such invoice; and

(4) Modify Section 11.9 to reiterate that re-runs and the financial outcomes of dispute resolution may be invoiced separately from market activities, and that the CAISO will give a market notice at least 30 days prior to such invoicing identifying the components of such invoice.

5. The CAISO also raises the issue of what constitutes a reasonable time period for the filing of disputes concerning the preparatory settlement re-run. Currently, the tariff allows the Scheduling Coordinator eight business days to review the Settlement Statements that it receives. Some market participants have stated that this is not enough time to allow for a successful review of the preparatory settlement re-run statements. In an answer, the CAISO requests a waiver of its tariff to change the dispute period to allow Scheduling Coordinators 15 business day dispute period for the limited purpose of reviewing the preparatory settlement re-run statements.

## **Notice, Interventions, Protests and Answer**

6. Notice of the CAISO's April 15, 2003, filing was published in the Federal Register, 68 Fed. Reg. 20,133 (April 24, 2003), with interventions and protests due no later than May 6, 2003.

7. Sempra Energy Trading Corp., Powerex Corp., the Metropolitan Water District of Southern California, Transmission Agency of Northern California, the California Department of Water Resources State Water Project, and the California Department of Water Resources-California Energy Resources Scheduling filed timely motions to intervene. The City of Los Angeles Department of Water and Power (LADWP), Puget Sound Energy, Inc., Avista Energy, Inc., California Power Exchange Corporation, and Southern California Edison Company filed timely motions to intervene and comments. The State of California Electricity Oversight Board and the California Public Utilities Commission jointly filed a timely notice to intervene and comments. The California Generators, Pacific Gas and Electric Company (PG&E), Automated Power Exchange, Inc. (APX), Northern California Power Agency (NCPA), Modesto Irrigation District, the Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency filed timely motions to intervene and protests. On May 19, 2003, Sacramento Municipal Utility District (SMUD) filed an untimely motion to intervene. On May 21, 2003, the CAISO filed an answer to the above parties' protests. On June 4, 2003, PG&E filed an answer to the CAISO's answer.

8. The majority of the protestors raised issues concerning the current dispute window of eight days, as set forth in the CAISO tariff. The parties contend that the dispute window does not provide sufficient time to review the quantity of information that will arise from the preparatory adjustments and re-run statements required in the California refund proceeding. They argue that the eight day dispute window was established for settlement re-runs arising from routine business and was not intended for, nor should it apply to, the California refund proceeding.

9. The majority of the protestors submit that proposed Amendment No. 51 should be submitted in a compliance filing, or otherwise proposed for comment in the California refund proceeding. They argue that all parties should have an opportunity to examine and challenge the compliance filing pursuant to the Commission's Rules of Practice and Procedures, including the rights to discovery and hearing, if appropriate. They contend that "piece-meal" tariff amendments do not represent what was contemplated in the California refund proceeding.

10. Many parties protest the filing if the changes would serve as a mechanism to shift or otherwise reallocate costs. LADWP and PG&E submit that the impact of the CAISO's proposed deletion of the last sentence of its tariff § 11.6.3.3 is not apparent from the filing. They protest that deletion to the extent that it may impose new costs on them for which

they would not otherwise have been liable under the tariff provisions in effect when they transacted with the CAISO. PG&E argues that the filing is devoid of the supporting details and information that would allow an accurate conclusion to be drawn, therefore, the proposal may be unjust, unreasonable, and applied in a discriminatory manner.

11. APX submits that the CAISO's proposal to "wall off" preparatory adjustments and re-runs from the normal invoicing and settlement process is unjust and unreasonable. It argues that the proposal does not "wall off" credit and payment (or default) requirements associated with re-runs or adjustments and outcomes of dispute resolution. It contends that a full separation of the system must be achieved for the proposal to serve the CAISO's stated purpose and the current proposal achieves only a partial separation of the system, and therefore, Amendment No. 51 is an unjust and unreasonable proposal.

12. The California Generators and PG&E contend that proposed Amendment No. 51 is inadequately supported because of the lack of details concerning the prospective methodologies, allocations, and processes by which the CAISO intends to perform the re-runs and preparatory adjustments for the California refund proceeding. They argue that certain issues such as the allocation of over- and under-recoveries concerning meter data, good faith negotiations, settlements issued by the Commission, adjustments required by energy exchange contracts with other control areas, adjustments identified by the ISO Compliance Department to eliminate payments for scheduled Ancillary Service capacity that was unavailable due to uninstructed deviations, and certain adjustments to payments for Regulation Reserve, have not been addressed.

## **Discussion**

### **A. Procedural Matters**

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(c) (2002), the State of California Electricity Oversight Board and the California Public Utilities Commission's jointly filed notice of intervention makes them a party to this proceeding. We will grant SMUD's untimely motion to intervene given the early stage of this proceeding and the absence of any undue prejudice or delay. The timely, unopposed motions to intervene the remaining parties filed serve to make them parties to this proceeding. Rule 213(a) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise permitted by a decisional authority.<sup>2</sup> However, in this case, we find the CAISO's May 21 answer and PG&E's June 4 answer to be helpful in the development of the record in this proceeding, and accordingly, we accept them.

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<sup>2</sup>See 18 C.F.R. § 385.213(a)(2) (2002).

## **B. Commission Determination**

14. According to the CAISO, Amendment No. 51 to its tariff is necessary for it to complete certain preparatory adjustments and re-runs of its billing statements that encompass over 18 major revisions. The CAISO states that these adjustments/revisions are necessary to calculate final refunds ordered in the California Refund Order. While the Commission is aware that revisions to data and re-runs of billing statements will be required for the CAISO to comply with our prior order, the CAISO has failed to detail the 18 revisions and only mentions five revisions that the preparatory adjustments and re-runs will encompass. We find that the CAISO has not fully explained and clarified the preparatory re-run analysis along with the revisions involved. Further, the CAISO's proposed tariff revisions would apply more broadly, *i.e.*, they are not limited to adjustments and billing services related to the California Refund Order. The CAISO has not explained why this broad authority is necessary, and how and when it anticipates using this authority. Nevertheless, the CAISO states that these preparatory adjustments and re-runs of its billing statements are imperative prerequisites to the settlement re-run the Commission directed in the California Refund Order.

15. Our preliminary review indicates that the filing, as presented, has not been shown to be just and reasonable. Accordingly, we will conditionally accept and suspend the tariff revisions, subject to refund, to be effective until the earlier of five months (*i.e.*, November 14, 2003) or the date specified in a further order by the Commission. The Commission directs that the CAISO provide additional information within 20 days of issuance of this order. The CAISO compliance filing must explain and justify each proposed adjustment for the 18 major revisions and address the concerns and provide details as described below.

16. Several modifications to the tariff were proposed in the Amendment No. 51 filing. The first modification changed the language in Section 11.6.3.2 to state that "The Governing Board may order the cost of a Settlement Statement re-run to be borne by the Scheduling Coordinator requesting it." The current tariff states "The cost of a Settlement Statement re-run shall be borne by the Scheduling Coordinator requesting it . . . ." The CAISO has not provided the reasons why the Governing Board must order these costs to be borne by a Scheduling Coordinator and the criteria the Governing Board would use to decide the cost responsibility of the Settlement Statement re-run. Accordingly, we will direct the CAISO to provide an explanation for this proposed change and a detailed explanation of the criteria the Governing Board would use to assess payment of the costs of a Settlement Statement re-run and with all of the allocation factors.

17. The second modification the CAISO proposed concerns Section 11.6.3.3. This Section states, "Where a Settlement Statement re-run indicates that the accounts of Scheduling Coordinators should be debited or credited to reflect alterations to Settlements previously made under this ISO Tariff, for those Scheduling Coordinators affected by the statement re-run, the ISO shall reflect the amounts to be debited or credited in the next Preliminary Settlement Statements that it issues following the Settlement Statement re-run to which the provisions of this Section 11 apply." The CAISO removed the last sentence of this section, which states, "The net balance of all adjustments shall go into a balancing account, as a debit or credit, to the Grid Management Charge." In its May 21 answer, the CAISO stated that this change merely corrects the tariff since this language has never been operable. However, the impact of the CAISO's proposed deletion of the last sentence is not apparent from the CAISO's filing. We will direct the CAISO to provide a detailed explanation of how it intends to allocate any amounts it cannot recover from one customer to other customers and whether, or to what extent, this proposal differs from its current tariff provision or practice.

18. The third and fourth modifications to the CAISO's tariff are to Sections 11.6.3.4 and 11.9. The proposed changes to each section are identical. The CAISO adds language to provide that re-runs and the financial outcomes of dispute resolution may be invoiced separately from monthly market activities, and that the CAISO will give a market notice at least 30 days prior to such invoicing identifying the components of such invoice. We will direct the CAISO to provide specific details regarding the separation process that it plans to implement.

19. The CAISO did not initially propose a change to extend the time period for the filing of disputes. However, in its answer, the CAISO requests waiver of its tariff to extend the window for disputing a settlement statement from the preparatory settlement re-run. The CAISO proposes to extend the dispute period from the standard eight business days, as stated in the Tariff,<sup>3</sup> to 15 business days. We will defer action on the CAISO's request for waiver of this tariff provision and direct the CAISO to provide a detailed explanation of how market participants can dispute the re-run assessments, including when the dispute period begins.

The Commission orders:

(1) The Amendment No. 51 filing is hereby conditionally accepted and suspended, subject to refund, to become effective the earlier of November 14, 2003 or a date specified in a further Commission order in this proceeding, as discussed in the body of this order.

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<sup>3</sup>See CAISO Tariff, Settlement and Billing Protocol § 4.4.1.1.

(2) The untimely motion to intervene of SMUD is hereby granted.

(3) The CAISO is hereby directed to provide additional information within 20 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.